No. 15711

United States Court of Appeals

for the Ninth Circuit

ARTHUR TUGGI BRUNNER, Appellant,

vs.

ALBERT DEL GUERCIO, as District Director, Immigration and Naturalization Service, Los Angeles, California, Appellee.

Transcript of Record

Appeal from the United States District Court for the Southern District of California, Central Division

Phillips & Van Orden Co., Fourth and Berry Sts., San Francisco, Calif.—11-11-57

No. 15711

United States Court of Appeals

for the Ninth Circuit

ARTHUR TUGGI BRUNNER, Appellant,

vs.

ALBERT DEL GUERCIO, as District Director, Immigration and Naturalization Service, Los Angeles, California, Appellee.

Transcript of Record

Appeal from the United States District Court for the Southern District of California, Central Division

INDEX

[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur.]

In the United States District Court, Southern District of California, Central Division

No. 19880-Y

ARTHUR TUGGI BRUNNER, Plaintiff,

vs.

ALBERT DEL GUERCIO, as District Director, Immigration and Naturalization Service, Los Angeles, California, Defendant.

COMPLAINT FOR JUDICIAL REVIEW OF ORDER OF DEPORTATION

Plaintiff, Arthur Tuggi Brunner, complains of the defendant and for cause of action alleges:

I.

This complaint is filed and these proceedings are instituted against the defendant pursuant to Title 28, U.S.C.A., Section 2201 and Title 5, U.S.C.A., Section 1009, for a judgment declaring that plaintiff is not deportable from the United States.

II.

The plaintiff is a resident of the County of Los Angeles, State of California, within the jurisdiction of this Court.

III.

The defendant, Albert Del Guercio, is the duly appointed, qualified and acting District Director of the Immigration and [2] Naturalization Service,

Department of Justice, Los Angeles, California; that William G. Munro, Special Inquiry Officer, Immigration and Naturalization Service, Miami, Florida, and the members of the Board of Immigration Appeals, Washington, D. C., are, and at all times herein complained of were, executive officials within the Department of Justice.

IV.

The plaintiff is a native and citizen of Switzerland, 30 years of age, who was lawfully admitted to the United States for permanent residence on October 15, 1949, and who has resided continuously in the United States since that time; that he last arrived in the United States at Honolulu, Territory of Hawaii on April 23, 1953 as a member of a United Service Organization show troupe.

V.

On or about January 17, 1955, there was served upon the plaintiff a warrant of arrest issued by the Immigration and Naturalization Service directing that plaintiff be taken into custody and granted a hearing to show cause why he should not be deported from the United States; that pursuant to such warrant, a hearing was accorded the plaintiff by William G. Munro, Special Inquiry Officer, at Miami, Florida on February 25, 1955; that on or about March 21, 1955, the said Special Inquiry Officer, William G. Munro, after making findings of fact and conclusions of law, ordered that the deportation proceedings in this case be terminated,

but certified the case to the Board of Immigration Appeals for its consideration.

VI.

On or about August 30, 1955, the Board of Immigration Appeals directed that the order of the Special Inquiry Officer, dated March 21, 1955, be withdrawn, and without preparing new findings of fact or conclusions of law, determined that plaintiff is subject to deportation on the charge stated in the warrant of arrest, i.e.:

"(1) That under section 241(a)(1) of the [3] Immigration and Nationality Act, he is subject to deportation because, at the time of his entry at Honolulu, Territory of Hawaii, on April 23, 1953, he was within one or more of the classes of aliens excludable by the law existing at the time of such entry, to wit, Aliens who are ineligible to citizenship under section 212(a)(22) of the said Act."

VII.

On or about December 22, 1955, a warrant directing plaintiff's deportation from the United States was issued by the Immigration and Naturalization Service, but no order of deportation was ever issued.

VIII.

On or about December 29, 1955, a motion to reconsider plaintiff's case, filed by his counsel, was forwarded by the Immigration and Naturalization Service to the Board of Immigration Appeals, Washington, D. C., and the motion to reconsider

was denied by the said Board on or about February 24, 1956.

IX.

The deportation proceedings conducted in plaintiff's case were unfair, constituted a denial of due process of law and there is no reliable, probative and substantial evidence in the deportation record sustaining the charge upon which plaintiff has been ordered deported, for the following reasons, among others:

1. That the findings of fact and conclusions of law and order terminating the deportation proceedings promulgated on March 21, 1955 by William G. Munro, Special Inquiry Officer, are binding upon the Board of Immigration Appeals and may not be set aside.

2. That the Government should be estopped [4] from predicating plaintiff's deportation upon his last arrival in the United States on April 23, 1953 for the reason that, prior to such arrival, the Immigration and Naturalization Service had issued to him a reentry permit with full knowledge that he might be subject to exclusion upon return and failed to so advise him at the time of delivery of the reentry permit.

3. That the evidence of record in the deportation hearing does not establish that plaintiff knowingly and freely made an independent choice in executing Form SSS 130 of the Selective Service System, and thus rendered himself ineligible to citizenship.

Wherefore, plaintiff prays that the Court review the record of his deportation proceedings and enter judgment that he is not deportable from the United States on the charge contained in the order of deportation and that, pending such review, the Court enjoin and restrain the defendant from proceeding with the deportation of plaintiff.

GORDON, KIDDER & PRICE,
/s/ By MARSHALL E. KIDDER,
Attorneys for Plaintiff.

[Endorsed]: Filed May 7, 1956.

[Title of District Court and Cause.]

ANSWER TO COMPLAINT FOR JUDICIAL REVIEW OF ORDER OF DEPORTATION

Comes now the defendant, Albert Del Guercio, as District Director, Immigration and Naturalization Service, Los Angeles, California, and for answer to plaintiff's Complaint on file herein, admits, denies and alleges as follows:

I.

Referring to the allegations contained in paragraph I of plaintiff's Complaint, neither admits nor denies said allegations, the same being conclusions of law.

II.

Admits the allegations contained in paragraphs II, III, V and VIII of plaintiff's Complaint.

III.

Referring to the allegations contained in paragraph IV of [6] plaintiff's Complaint, denies that plaintiff has resided continuously in the United States since October 15, 1949; admits all the other allegations contained in said paragraph VI.

IV.

Referring to the allegations contained in paragraph VI of plaintiff's Complaint, denies said allegations and alleges that on or about August 30, 1955, the Board of Immigration Appeals made the following order:

Order: It is ordered that the order of the special inquiry officer dated March 21, 1955 be withdrawn.

It Is Further Ordered that an order of deportation be not entered at this time but that the alien be required to depart from the United States without expense to the Government within such period of time and under such conditions as the officer in charge of the District deems appropriate.

It Is Further Ordered that if the alien does not depart from the United States in accordance with the foregoing, the order of deportation be reinstated and executed.

V.

Referring to the allegations contained in paragraph VII of plaintiff's Complaint, denies said allegations, and alleges that on or about December 22, 1955, a Warrant of Deportation was issued by the Immigration and Naturalization Service pertaining to plaintiff.

VI.

Referring to the allegations contained in paragraph IX of plaintiff's Complaint, denies said allegations.

Wherefore, defendant prays that the Court deny the relief prayed for by plaintiff herein, and affirm the decision of the Board of Appeals of the Immigration and Naturalization Service [7] that plaintiff should be deported, for costs of suit herein, and for such other relief as the Court deems proper.

LAUGHLIN E. WATERS,
United States Attorney,

MAX F. DEUTZ,
Assistant United States Attorney,
Chief of Civil Division,

ARLINE MARTIN,
Assistant United States Attorney,

/s/ ARLINE MARTIN,
Attorneys for Defendant. [8]

Affidavit of Service by Mail Attached.

[Endorsed]: Filed June 28, 1956.

[Title of District Court and Cause.]

PLAINTIFF'S PROPOSED PRE-TRIAL ORDER

At a conference held under Rule 16, F.R.C.P., by direction of Wm. M. Byrne, Judge, the follow-

ing admissions and agreements of fact were made by the parties and require no proof:

(1) Plaintiff, Arthur Tuggi Brunner, is a native and citizen of Switzerland, who was lawfully admitted to the United States for permanent residence at New York, N. Y. on October 15, 1949.

(2) On or about August, 1950, plaintiff registered for military service in accordance with the provisions of the Selective Service Act of 1948.

(3) On or about April 2, 1951, plaintiff signed SSS Form No. 130, "Application by Alien for Relief From Training and Service in the Armed Forces", which document is Exhibit V in the Immigration and Naturalization file.

(4) On or about December 16, 1952, plaintiff departed from the [10] United States in possession of a reentry permit issued by the Immigration and Naturalization Service on December 8, 1952, and returned to the United States at New Orleans, Louisiana on January 3, 1953, in possession of the aforesaid reentry permit, which document is Exhibit II in the Immigration and Naturalization file.

(5) On or about April 1, 1953, plaintiff departed from the United States in possession of a reentry permit issued by the Immigration and Naturalization Service on March 18, 1953, and returned to the United States at Honolulu, T. H. on April 23, 1953, in possession of the aforesaid reentry permit, which document is Exhibit IV in the Immigration and Naturalization file.

(6) On March 21, 1955, following the completion of a deportation hearing accorded plaintiff, the Special Inquiry Officer made the following order:

"Order: It is ordered that the proceedings in this case be terminated.

The Board of Immigration Appeals has directed that this case be certified to that Board and the final order will be entered in this case by the Board. You will be allowed ten days in which to submit to this office any brief, memorandum, or request for oral argument, which you desire to be transmitted with the record in this case, for consideration by the Board."

(7) The plaintiff did not file any notice of appeal from the order of the Special Inquiry Officer dated March 21, 1955 terminating the proceedings.

(8) There is no written direction of the Board of Immigration Appeals or the Assistant Commissioner, Inspections and Examinations [11] Division, to certify this specific case to the Board of Immigration Appeals.

(9) On August 30, 1955, the Board of Immigration Appeals made the following order:

"Order: It is ordered that the order of the special inquiry officer dated March 21, 1955 be withdrawn.

It Is Further Ordered that an order of deportation be not entered at this time but that the alien

be required to depart from the United States without expense to the Government within such period of time and under such conditions as the officer in charge of the District deems appropriate.

It Is Further Ordered that if the alien does not depart from the United States in accordance with the foregoing, the order of deportation be reinstated and executed."

(10) The plaintiff did not depart voluntarily from the United States, and a warrant of deportation was issued by the District Director, Los Angeles, California, on December 22, 1955.

Issues of Fact to Be Tried

There are no issues of fact to be tried.

Issues of Law

(1) Did the Board of Immigration Appeals have jurisdiction to review and withdraw the order of the Special Inquiry Officer dated March 21, 1955, terminating the deportation proceedings?

(2) Is the Government estopped from using the arrivals of January 3, 1953 and April 23, 1953 as entries upon which to base a ground of deportation, by reason of the fact that it issued to [12] plaintiff permits to reenter on both said occasions?

(3) Is there a final administrative order of deportation outstanding?

(4) Is there reasonable, substantial and probative evidence that plaintiff was a member of an

excludable class at time of entry, to wit, an alien ineligible to citizenship?

The foregoing admissions of fact have been made by the parties in open court at the pre-trial conference; and issues of fact and law being thereupon stated and agreed to, the court makes this Order which shall govern the course of the trial unless modified to prevent manifest injustice.

Dated: February 11, 1957.

/s/ WM. M. BYRNE,
Judge of the U. S. District Court.

The foregoing pre-trial order is hereby approved:

GORDON, KIDDER & PRICE,

/s/ By MARSHALL E. KIDDER,
Attorneys for Plaintiff.

LAUGHLIN E. WATERS,
United States Attorney,

MAX F. DEUTZ,
Assistant United States Attorney,
Chief of Civil Division,

ARLINE MARTIN,
Assistant United States Attorney,

/s/ By ARLINE MARTIN,
Attorneys for Defendant. [13]

[Endorsed]: Filed February 11, 1957.

United States District Court, Southern District of California, Central Division

Civil No. 19880-WB

ARTHUR TUGGI BRUNNER, Plaintiff,

vs.

ALBERT DEL GUERCIO, as District Director, Immigration and Naturalization Service, Los Angeles, California, Defendant.

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND JUDGMENT

The above cause having come on for trial on Monday, April 8, 1957, at 2 o'clock P.M., before the Honorable William M. Byrne, Judge presiding, plaintiff appearing by his attorneys Gordon, Kidder and Price by Marshall E. Kidder, and defendant being represented by Laughlin E. Waters, United States Attorney, Richard A. Lavine and Arline Martin, Assistant United States Attorneys, and the certified copy of the Immigration and Naturalization proceedings relating to the plaintiff having been introduced in evidence as Government's Exhibit A, the matter having been argued orally and upon written memoranda, and having been submitted to the Court for its decision, and the Court being fully advised makes the following Findings of Fact, Conclusions of Law and Judgment: [14]

Findings of Fact

I.

Jurisdiction is invoked for a declaratory judgment reviewing a final deportation order of the Immigration and Naturalization Service pursuant to the provisions of Title 28 U.S.C. §2201 and Title 5 U.S.C. §1009.

II.

The plaintiff is a resident of the County of Los Angeles, State of California, within the jurisdiction of this Court.

III.

The defendant, Albert Del Guercio, is a duly appointed, qualified and acting District Director of the Immigration and Naturalization Service, Department of Justice, Los Angeles, California.

IV.

Plaintiff, Arthur Tuggi Brunner, is a native and citizen of Switzerland, who was lawfully admitted to the United States for permanent residence at New York, New York, on October 15, 1949.

V.

On or about August, 1950, plaintiff registered for military service in accordance with the provisions of the Selective Service Act of 1948.

VI.

On or about April 2, 1951, plaintiff signed SSS Form No. 130, "Application by Alien for Relief from Training and Service in the Armed Forces",

which document is Exhibit V in the Immigration and Naturalization file.

VII.

On or about December 16, 1952, plaintiff departed from the United States in possession of a reentry permit issued by the Immigration and Naturalization Service on December 8, 1952, and [15] returned to the United States at New Orleans, Louisiana, on January 3, 1953, in possession of the aforesaid reentry permit, which document is Exhibit II in the Immigration and Naturalization file.

VIII.

On or about April 1, 1953, plaintiff departed from the United States in possession of a reentry permit issued by the Immigration and Naturalization Service on March 18, 1953, and returned to the United States at Honolulu, T. H., on April 23, 1953, in possession of the aforesaid reentry permit, which document is Exhibit IV in the Immigration and Naturalization file.

IX.

On March 21, 1955, following the completion of a deportation hearing accorded plaintiff, the Special Inquiry Officer made the following order:

"Order: It is ordered that the proceedings in this case be terminated.

The Board of Immigration Appeals has directed that this case be certified to that Board and the final order will be entered in this case by the Board. You will be allowed ten days in which to

submit to this office any brief, memorandum, or request for oral argument, which you desire to be transmitted with the record in this case, for consideration by the Board."

X.

The plaintiff did not file any notice of appeal from the order of the Special Inquiry Officer dated March 21, 1955, terminating the proceedings. [16]

XI.

There is no written direction of the Board of Immigration Appeals or the Assistant Commissioner, Inspections and Examinations Division, to certify this specific case to the Board of Immigration Appeals.

XII.

On August 30, 1955, the Board of Immigration Appeals made the following order:

"Order: It is ordered that the order of the special inquiry officer dated March 21, 1955, be withdrawn.

It Is Further Ordered that an order of deportation be not entered at this time but that the alien be required to depart from the United States without expense to the Government within such period of time and under such conditions as to the officer in charge of the District deems appropriate.

It Is Further Ordered that if the alien does not depart from the United States in accordance with the foregoing, the order of deportation be reinstated and executed."

XIII.

The plaintiff did not depart voluntarily from the United States, and a warrant of deportation was issued by the District Director, Los Angeles, California, on December 22, 1955.

XIV.

Plaintiff was found deportable by the Immigration and Naturalization Service on the ground that under Section 241(a)(1) of the Nationality Act [8 U.S.C. 1251(a)(1) 1952 Ed.] at the time of his entry he was one of a class of aliens excludable under [17] Section 212(a)(22) of the Nationality Act [8 U.S.C. 1182(a)(22) 1952 Ed.] in that he was ineligible to citizenship under Section 4(a) of the Selective Service Act because he had applied for exemption from service.

Conclusions of Law

I.

The findings and order of deportation of the Immigration and Naturalization Service are supported by reasonable, substantial and probative evidence and are affirmed.

II.

There was no error of law in the conclusion of the Immigration and Naturalization Service that plaintiff was and is debarred from becoming a citizen of the United States as a result of his application on April 2, 1952, on SSS Form 130 of the Selective Service System, for relief from training and service in the Armed Forces of the United

States, and that as a result thereof at the time of plaintiff's entries into the United States on January 3, 1953, and April 23, 1953, he was within one or more of the classes of aliens excludable by law existing at the time of said entries.

III.

There was no error of law by the Immigration and Naturalization Service in predicating said deportation order on the plaintiff's entries of January 3, 1953, and April 23, 1953, for the reason that there was no estoppel created against the Immigration and Naturalization Service by reason of its issuing to plaintiff the two permits to reenter the United States.

IV.

The Board of Immigration Appeals had jurisdiction to review and withdraw the order of the special inquiry officer dated March 21, 1955, terminating the deportation proceedings before the [18] Immigration and Naturalization Service, and the decision of the Board of Immigration Appeals constitutes a final administrative order of deportation, which order should be affirmed as valid and judgment entered accordingly.

Judgment

In accordance with the foregoing Findings of Fact and Conclusions of Law,

It Is Ordered, Adjudged and Decreed that the final order of deportation of the plaintiff herein by the Immigration and Naturalization Service is a

valid order and that the injunction and other relief prayed for by the plaintiff be and the same is hereby denied, with costs to the defendant in the sum of $20.00 as and for a docket fee pursuant to 28 U.S.C. 1923.

Dated: May 10, 1957.

/s/ WM. M. BYRNE,
United States District Judge. [19]

Affidavit of Service by Mail Attached.

[Endorsed]: Filed May 10, 1957. Docketed and Entered May 13, 1957. [20]

[Title of District Court and Cause.]

NOTICE OF APPEAL

Notice Is Hereby Given that Arthur Tuggi Brunner, plaintiff herein, does hereby appeal to the United States Court of Appeals for the Ninth Circuit from the judgment in the above entitled action against plaintiff and in favor of defendant which said judgment was entered in this action on May 13, 1957.

GORDON, KIDDER & PRICE,
/s/ By MARSHALL E. KIDDER,
Attorneys for Plaintiff. [21]

Acknowledgment of Service Attached. [22]

[Endorsed] Filed June 18, 1957.

[Title of District Court and Cause.]

REQUEST TO EXTEND TIME TO FILE AND DOCKET RECORD ON APPEAL AND ORDER

Request is hereby made, for the reasons set forth in the attached affidavit of the undersigned, dated July 19, 1957, that, in accordance with Rule 74(g) of the Rules of Civil Procedure for the United States District Courts, as amended, plaintiff be allowed an additional fifty days from July 28, 1957 within which to file and docket the record on appeal.

Dated: July 19, 1957.

GORDON, KIDDER & PRICE,
/s/ By MARSHALL E. KIDDER,
Attorneys for Plaintiff.

Good cause appearing therefor, It Is Ordered that the time within which the record on appeal may be filed and docketed be, and the same is, extended until September 13, 1957.

Dated: July 19, 1957.

/s/ WM. M. BYRNE,
United States District Judge. [23]

[Title of District Court and Cause.]

AFFIDAVIT OF MARSHALL E. KIDDER

State of California
County of Los Angeles—ss.

Marshall E. Kidder, being duly sworn, deposes and says:

That he is representing the plaintiff, Arthur Tuggi Brunner, and has heretofore on June 18, 1957 filed Notice of Appeal from the judgment against plaintiff and in favor of the defendant and entered on May 13, 1957;

That the appeal is to the United States Court of Appeals for the Ninth Circuit;

That because of certain Superior Court trials, hereinafter mentioned, and certain administrative hearings before the Immigration and Naturalization Service, affiant has not yet designated the record on appeal or docketed the appeal, and the time therefor [24] will expire on or about July 29, 1957;

That affiant was engaged in trial in the Superior Court, Los Angeles County, in the personal injury action of Chavez v. Hurley, No. 660,790, from July 2, 1957 through July 5, 1957, and was engaged further in the same type of action in the case of Rivas, et al. v. Lamar, Superior Court No. 663,291, which trial was undertaken on July 16, 1957 and is still in progress;

That affiant has anticipated and planned to be

on vacation for a two-week period beginning on or about July 22, 1957.

Wherefore, affiant respectfully requests the Court, in accordance with Rule 73(g) of the Rules of Civil Procedure for the United States District Courts, as amended, to extend the time for filing the record on appeal and docketing the appeal for an additional period of fifty days beyond July 29, 1957.

/s/ MARSHALL E. KIDDER.

Subscribed and sworn to before me this 19th day of July, 1957.

[Seal] L. A. GORDON,

Notary Public in and for the County of Los Angeles, State of California. My Commission Expires May 14, 1958. [25]

Acknowledgment of Service Attached. [26]

[Endorsed]: Filed July 19, 1957.

[Title of District Court and Cause.]

STIPULATION REGARDING ORIGINAL EXHIBITS

It Is Hereby Stipulated by and between the parties hereto, through their respective counsel, that the original exhibits introduced at the trial of the action, may be considered in their original form by the United States Court of Appeals for the Ninth Circuit in connection with the pending appeal and need not be printed.

Dated this 29th day of August, 1957.

GORDON, KIDDER & PRICE,
/s/ By MARSHALL E. KIDDER,
Attorneys for Plaintiff.
LAUGHLIN E. WATERS,
United States Attorney,
RICHARD A. LAVINE,
Assistant United States Attorney,
Chief of Civil Division,
ARLINE MARTIN,
Assistant United States Attorney,
/s/ By ARLINE MARTIN,
Attorneys for Defendant. [27]

[Endorsed]: Filed September 6, 1957.

[Title of District Court and Cause.]

DESIGNATION OF CONTENTS OF RECORD ON APPEAL

Arthur Tuggi Brunner, as appellant herein, designates the portions of the record, proceedings, and evidence to be contained in the record on appeal, as follows:

1. Complaint for Judicial Review of Order of Deportation.

2. Answer to Complaint for Judicial Review of Order of Deportation.

3. Plaintiff's Proposed Pre-Trial Order.

4. Findings of Fact, Conclusions of Law and Judgment.

5. Request to Extend Time to File and Docket Record on Appeal and Order.

6. Defendant's Exhibit "A".

7. Notice of Appeal.

8. Stipulation regarding consideration of [28] Exhibits in original form.

9. Designation of Contents of Record on Appeal.

Dated: August 29, 1957.

GORDON, KIDDER AND PRICE,
/s/ By MARSHALL E. KIDDER,
Attorneys for Plaintiff. [29]

Acknowledgment of Service Attached. [30]

[Endorsed]: Filed September 6, 1957.

[Title of District Court and Cause.]

STATEMENT OF POINTS UPON WHICH APPELLANT RELIES

Arthur Tuggi Brunner, as appellant herein, presents herewith the following statement of points upon which he intends to rely on appeal to the United States Court of Appeals for the Ninth Circuit.

The District Court erred in concluding as a matter of law that:

1. The findings and order of deportation are supported by reasonable, substantial and probative evidence.

2. There was no estoppel created against the Immigration and Naturalization Service by reason of its issuing to plaintiff two permits to reenter the United States and predicating the deportation or-

der on the plaintiff's entries of January 3, 1953 and April 23, 1953 with such permits. [31]

3. The Board of Immigration Appeals had jurisdiction to review and withdraw the order of the Special Inquiry Officer dated March 21, 1955 terminating the deportation proceedings.

4. The decision of the Board of Immigration Appeals of August 30, 1955 constitutes a final and valid administrative order of deportation.

5. The appellee is entitled to judgment and costs.

Appellant would also rely upon the following point:

The savings clause of the Immigration and Nationality Act, Section 405, preserved the appellant's immigration status which he had prior to the 1952 Act, i.e., a resident alien entitled to depart from the United States on temporary visits and return, even though he may have been ineligible for citizenship.

Dated: September 10, 1957.

GORDON, KIDDER & PRICE,
/s/ By MARSHALL E. KIDDER,
Attorneys for Appellant. [32]

Acknowledgment of Service Attached. [33]

[Endorsed]: Filed September 11, 1957.

[Title of District Court and Cause.]

CERTIFICATE BY CLERK

I, John A. Childress, Clerk of the above-entitled Court, hereby certify that the items listed below constitute the transcript of record on appeal to the

United States Court of Appeals for the Ninth Circuit, in the above-entitled cause:

A. The foregoing pages numbered 1 to 33, inclusive, containing the original:

Complaint

Answer

Plaintiff's Proposed Pre-Trial Order

Findings of Fact, Conclusions of Law and Judgment

Notice of Appeal

Request to extend time to file and docket Record on Appeal

Stipulation regarding original Exhibits

Designation of Contents of Record on Appeal

Statement of Points upon which Appellant Relies

B. Defendant's Exhibit "A"

I further certify that my fee for preparing the foregoing record, amounting to $1.60, has been paid by appellant.

Witness my hand and the seal of said District Court, this 12th day of September, 1957.

[Seal] JOHN A. CHILDRESS,
Clerk,

/s/ By WM. A. WHITE,
Deputy Clerk.

[Endorsed]: No. 15711. United States Court of Appeals for the Ninth Circuit. Arthur Tuggi Brunner, Appellant, vs. Albert Del Guercio, as District Director, Immigration and Naturalization Service, Los Angeles, California, Appellee. Transcript of Record. Appeal from the United States District Court for the Southern District of California, Central Division.

Filed: September 16, 1957.

/s/ PAUL P. O'BRIEN,
Clerk of the United States Court of Appeals for the Ninth Circuit.

In the United States Court of Appeals
for the Ninth Circuit

No. 15711

ARTHUR TUGGI BRUNNER, Appellant,

vs.

ALBERT DEL GUERCIO, as District Director, Immigration and Naturalization Service, Los Angeles, California, Appellee.

ADOPTION OF DESIGNATION OF RECORD AND STATEMENT OF POINTS UPON WHICH APPELLANT RELIES

Arthur Tuggi Brunner, as appellant herein, through his counsel, hereby formally adopted and ratifies as a portion of his case herein, and in

compliance with Rule 17 of the Rules of the United States Court of Appeals for the Ninth Circuit, the Designation of Contents of Record on Appeal filed in the United States District Court, Los Angeles, California, on September 6, 1957, and the Statement of Points Upon Which Appellant Relies, filed in the United States District Court, Los Angeles, California, on September 11, 1957.

Dated: September 26, 1957.

GORDON, KIDDER & PRICE,
/s/ By MARSHALL E. KIDDER,
Attorneys for Appellant.

Acknowledgment of Service Attached.

[Endorsed]: Filed September 28, 1957. Paul P. O'Brien, Clerk.